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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

MARIANA MORENO and MARISA)
WELLINGTON,)

Plaintiffs,)

v.)

NEWREZ, LLC, d/b/a SHELLPOINT)
MORTGAGE SERVICING,)

Defendant.)

Case No. 3:21-cv-00103-JMK

NOTICE OF REMOVAL

Defendant NewRez, LLC, d/b/a Shellpoint Mortgage Servicing (“NewRez” or “Defendant”) hereby removes Cause No. 3AN-21-04799 from the Superior Court for the State of Alaska, Third Judicial District at Anchorage to the United States District Court for the District of Alaska, pursuant to United States Code Title 28 sections 1332, 1441, and 1446, and as grounds for removal state as follows:

I. STATEMENT OF THE CASE

1. On February 23, 2021, Plaintiffs Mariana Moreno and Marisa Wellington (“Plaintiffs”) filed a complaint in the Superior Court for the State of Alaska, Third Judicial District at Anchorage, styled *Mariana Moreno and Marisa Wellington v. NewRez, LLC, d/b/a Shellpoint Mortgage Servicing*, Cause No. 3AN-21-04799 (the “State Court Action” and the “Complaint”).

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A copy of the process, pleadings, orders and other documents presently contained in the state court file and available for copying are attached to this Notice as Composite Exhibit 1.

2. On April 2, 2021, Defendant was served with a copy of the Complaint. Ex. 1.

3. The Complaint asserts nine causes of action: (1) ejectment, (2) trespass, (3) breach of agreement, (4) property damage, (5) slander of credit, (6) Fair Debt Collection Practices Act violation, (7) Alaska Mortgage Lending Regulation Act violation, (8) Unfair Trade Practices Act violation, and (9) punitive damages. Ex. 1.

4. On April 26, Defendant filed a Motion for Extension of Time to Respond to the Complaint in the State Court, seeking an extension through May 24, 2021, to respond to the Complaint. Defendant has taken no other action in the State Court Action.

II. DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332

5. This Court has diversity jurisdiction of this civil action under 28 U.S.C. § 1332, and Defendant may remove the action under the provisions of 28 U.S.C. § 1441(b), because this action is between citizens of different states and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

A. Complete Diversity Exists.

6. Plaintiffs are citizens of California.¹

7. Shellpoint is a citizen of Delaware and New York. Shellpoint is an assumed name of NewRez LLC, a Delaware limited liability company. The citizenship of a limited liability company is determined by the citizenship of each of its members. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). NewRez LLC has one member. Its sole member is

¹ Ex. 1 – the Complaint at ¶ 1 and 2.

Shellpoint Partners LLC, a Delaware limited liability company. Shellpoint Partners LLC has two members (1) NRM Acquisition LLC and (2) NRM Acquisition II LLC, both of which are Delaware limited liability companies. They each have just one member. New Residential Mortgage LLC, a Delaware limited liability company, is the sole member of both NRM Acquisition LLC and NRM Acquisition II LLC. New Residential Mortgage LLC has one member. Its sole member is New Residential Investment Corp., a Delaware corporation with its principal place of business in New York.

8. As Plaintiffs are citizens of California, and Defendant is a citizen of New York, and Delaware, complete diversity exists between the parties.

B. The Minimum Amount in Controversy Is Satisfied.

9. In the Complaint, Plaintiffs expressly allege that they are seeking more than \$100,000 in damages. Thus, the amount in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.

10. Because this action is wholly between citizens of different states, and because the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, this Court has diversity jurisdiction over this action, and this case is removable on that basis. 28 U.S.C. § 1332; 28 U.S.C. § 1441(b).

III. FEDERAL QUESTION UNDER 28 U.S.C. § 1331

11. Several of Plaintiffs' alleged claims in the State Court Action arise pursuant to federal law, i.e., the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1682, et. seq., and the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681. *See* Compl. Thus, this action states a basis for original subject matter jurisdiction under 28 U.S.C. § 1331, and therefore this removal is made pursuant to 28 U.S.C. § 1441(a). Plaintiffs' Complaint is removable to the United States

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District Court for the District of Alaska because the Complaint presents a federal question. Specifically, 28 U.S.C. § 1331 provides that “district courts shall have original jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States.” *See* 28 U.S.C. § 1331. Plaintiffs’ claims provide the basis for this Court’s jurisdiction as they have brought suit under the laws of the United States. Additionally, this Court has supplemental jurisdiction over the Plaintiffs’ related state law claims as they “form part of the same case or controversy.” 28 USC § 1367(a). Accordingly, NewRez is entitled to remove this action in accordance with 28 U.S.C. § 1441(a).

IV. ADDITIONAL PROCEDURAL REQUIREMENTS

12. This action is being removed to the district and division embracing the place where the action is pending. 28 U.S.C. §§ 1441(a) and 1446(a).

13. Removal is timely under 28 U.S.C. § 1446(b). This Notice of Removal (“Notice”) is being filed within thirty (30) days of the date that Defendant was served with the Complaint. *See* Ex. 1.

14. Defendant will promptly file a copy of this Notice of Removal in the State Court Action and give written notice of the removal of this action to Plaintiff. 28 U.S.C. § 1446(d).

15. Pursuant to 28 U.S.C. § 1446, “all defendants who have properly joined and served must join in or consent” to removal. 28 U.S.C. § 1446(b)(2)(A). NewRez is the sole Defendant in this action.

16. Pursuant to 28 U.S.C. § 1446(a) and Local Rule CV-81.1, a copy of the process, pleadings, orders and other documents presently contained in the state court file and available for copying are attached to this Notice as Composite Exhibit 1.

17. No previous application has been made for the relief requested herein.

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18. This Notice has been signed pursuant to Federal Rule of Civil Procedure 11.

IV. CONCLUSION

By this Notice, Defendant does not waive any objections they may have as to service, jurisdiction or venue, or any other defenses or objections they may have to this action. Defendant does not intend any admission of fact, law or liability, and expressly reserve all defenses, motions and/or pleas.

If any question should arise as to the propriety of the removal of this action, Defendant requests the opportunity to submit a brief and present oral argument in support of their position that this case has been properly removed.

WHEREFORE Defendant prays that this action be removed to this Court for determination; that all further proceedings in the state court be stayed; and that Defendant obtain all additional relief to which it is entitled.

DATED at San Francisco, CA this 29th day of April, 2021.

HOLLAND & KNIGHT LLP
Counsel for Defendant

By: /s/ Jessica M. Brown

Jessica M. Brown
Alaska Bar No. 1405030

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CERTIFICATE OF SERVICE

I certify that on April 29, 2021, a copy of the foregoing *Notice of Removal* was delivered electronically on the following:

Robert K. Reiman
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/s/ Jessica M. Brown

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